

125A.76 SPECIAL EDUCATION REVENUE.

Subdivision 1. **Definitions.** (a) For the purposes of this section and section 125A.79, the definitions in this subdivision apply.

(b) "Basic revenue" has the meaning given it in section 126C.10, subdivision 2. For the purposes of computing basic revenue pursuant to this section, each child with a disability shall be counted as prescribed in section 126C.05, subdivision 1.

(c) "Essential personnel" means teachers, cultural liaisons, related services, and support services staff providing services to students. Essential personnel may also include special education paraprofessionals or clericals providing support to teachers and students by preparing paperwork and making arrangements related to special education compliance requirements, including parent meetings and individualized education programs. Essential personnel does not include administrators and supervisors.

(d) "Average daily membership" has the meaning given it in section 126C.05.

(e) "Program growth factor" means 1.046 for fiscal years 2012 through 2015, 1.0 for fiscal year 2016, 1.046 for fiscal year 2017, and the product of 1.046 and the program growth factor for the previous year for fiscal year 2018 and later.

(f) "Nonfederal special education expenditure" means all direct expenditures that are necessary and essential to meet the district's obligation to provide special instruction and services to children with a disability according to sections 124D.454, 125A.03 to 125A.24, 125A.259 to 125A.48, and 125A.65 as submitted by the district and approved by the department under section 125A.75, subdivision 4, excluding expenditures:

- (1) reimbursed with federal funds;
- (2) reimbursed with other state aids under this chapter;
- (3) for general education costs of serving students with a disability;
- (4) for facilities;
- (5) for pupil transportation; and
- (6) for postemployment benefits.

(g) "Old formula special education expenditures" means expenditures eligible for revenue under Minnesota Statutes 2012, section 125A.76, subdivision 2.

(h) For the Minnesota State Academy for the Deaf and the Minnesota State Academy for the Blind, expenditures under paragraphs (f) and (g) are limited to the salary and fringe benefits of one-to-one instructional and behavior management aides and one-to-one licensed, certified professionals assigned to a child attending the academy, if the aides or professionals are required by the child's individualized education program.

(i) "Cross subsidy reduction aid percentage" means 1.0 percent for fiscal year 2014 and 2.27 percent for fiscal year 2015.

(j) "Cross subsidy reduction aid limit" means \$20 for fiscal year 2014 and \$48 for fiscal year 2015.

(k) "Special education aid increase limit" means \$80 for fiscal year 2016, \$100 for fiscal year 2017, and, for fiscal year 2018 and later, the sum of the special education aid increase limit for the previous fiscal year and \$40.

Subd. 2. Special education initial aid. The special education initial aid equals the sum of the following amounts computed using current year data:

(1) 68 percent of the salary of each essential person employed in the district's program for children with a disability during the fiscal year, whether the person is employed by one or more districts or a Minnesota correctional facility operating on a fee-for-service basis;

(2) for the Minnesota State Academy for the Deaf or the Minnesota State Academy for the Blind, 68 percent of the salary of each one-to-one instructional and behavior management aide and one-to-one licensed, certified professional assigned to a child attending the academy, if the aides or professionals are required by the child's individualized education program;

(3) for special instruction and services provided to any pupil by contracting with public, private, or voluntary agencies other than school districts, in place of special instruction and services provided by the district, 52 percent of the difference between the amount of the contract and the general education revenue, excluding basic skills revenue and alternative teacher compensation revenue, and referendum equalization aid attributable to a pupil, calculated using the resident district's average general education revenue and referendum equalization aid per adjusted pupil unit for the fraction of the school day the pupil receives services under the contract. This includes children who are residents of the state, receive services under this subdivision and subdivision 1, and are placed in a care and treatment facility by court action in a state that does not have a reciprocity agreement with the commissioner under section 125A.155 as provided for in section 125A.79, subdivision 8;

(4) for special instruction and services provided to any pupil by contracting for services with public, private, or voluntary agencies other than school districts, that are supplementary to a full educational program provided by the school district, 52 percent of the amount of the contract for that pupil;

(5) for supplies and equipment purchased or rented for use in the instruction of children with a disability, an amount equal to 47 percent of the sum actually expended by the district, or a Minnesota correctional facility operating on a fee-for-service basis, but not to exceed an average of \$47 in any one school year for each child with a disability receiving instruction;

(6) for fiscal years 1997 and later, special education base revenue shall include amounts under clauses (1) to (5) for special education summer programs provided during the base year for that fiscal year;

(7) the cost of providing transportation services for children with disabilities under section 123B.92, subdivision 1, paragraph (b), clause (4); and

(8) the district's transition-disabled program initial aid according to section 124D.454, subdivision 3.

The department shall establish procedures through the uniform financial accounting and reporting system to identify and track all revenues generated from third-party billings as special education revenue at the school district level; include revenue generated from third-party billings as special education revenue

in the annual cross-subsidy report; and exclude third-party revenue from calculation of excess cost aid to the districts.

[See Note.]

Subd. 2a. **Special education initial aid.** For fiscal year 2016 and later, a district's special education initial aid equals the sum of:

(1) the least of 62 percent of the district's old formula special education expenditures for the prior fiscal year, excluding pupil transportation expenditures, 50 percent of the district's nonfederal special education expenditures for the prior year, excluding pupil transportation expenditures, or 56 percent of the product of the sum of the following amounts, computed using prior fiscal year data, and the program growth factor:

(i) the product of the district's average daily membership served and the sum of:

(A) \$450; plus

(B) \$400 times the ratio of the sum of the number of pupils enrolled on October 1 who are eligible to receive free lunch plus one-half of the pupils enrolled on October 1 who are eligible to receive reduced-price lunch to the total October 1 enrollment; plus

(C) .008 times the district's average daily membership served; plus

(ii) \$10,400 times the December 1 child count for the primary disability areas of autism spectrum disorders, developmental delay, and severely multiply impaired; plus

(iii) \$18,000 times the December 1 child count for the primary disability areas of deaf and hard-of-hearing and emotional or behavioral disorders; plus

(iv) \$27,000 times the December 1 child count for the primary disability areas of developmentally cognitive mild-moderate, developmentally cognitive severe-profound, physically impaired, visually impaired, and deafblind; plus

(2) the cost of providing transportation services for children with disabilities under section 123B.92, subdivision 1, paragraph (b), clause (4).

[See Note.]

Subd. 2b. **Cross subsidy reduction aid.** For fiscal years 2014 and 2015, the cross subsidy reduction aid for a school district, not including a charter school, equals the lesser of (a) the product of the cross subsidy reduction aid limit and the district's average daily membership served or (b) the sum of the product of the cross subsidy reduction aid percentage, the district's average daily membership served, and the sum of:

(1) \$450; plus

(2) \$400 times the ratio of the sum of the number of pupils enrolled on October 1 who are eligible to receive free lunch plus one-half of the pupils enrolled on October 1 who are eligible to receive reduced-price lunch to the total October 1 enrollment; plus

(3) .008 times the district's average daily membership served; plus the product of the cross subsidy aid percentage and the sum of:

(i) \$10,100 times the December 1 child count for the primary disability areas of autism spectrum disorders, developmental delay, and severely multiply impaired; plus

(ii) \$17,500 times the December 1 child count for the primary disability areas of deaf and hard-of-hearing and emotional or behavioral disorders; plus

(iii) \$26,000 times the December 1 child count for the primary disability areas of developmentally cognitive mild-moderate, developmentally cognitive severe-profound, physically impaired, visually impaired, and deafblind.

Subd. 2c. **Special education aid.** (a) For fiscal year 2014 and fiscal year 2015, a district's special education aid equals the sum of the district's special education aid under subdivision 5, the district's cross subsidy reduction aid under subdivision 2b, and the district's excess cost aid under section 125A.79, subdivision 7.

(b) For fiscal year 2016 and later, a district's special education aid equals the sum of the district's special education initial aid under subdivision 2a and the district's excess cost aid under section 125A.79, subdivision 5.

(c) Notwithstanding paragraph (b), for fiscal year 2016, the special education aid for a school district must not exceed the sum of the special education aid the district would have received for fiscal year 2016 under Minnesota Statutes 2012, sections 125A.76 and 125A.79, as adjusted according to Minnesota Statutes 2012, sections 125A.11 and 127A.47, subdivision 7, and the product of the district's average daily membership served and the special education aid increase limit.

(d) Notwithstanding paragraph (b), for fiscal year 2017 and later, the special education aid for a school district must not exceed the sum of: (i) the product of the district's average daily membership served and the special education aid increase limit and (ii) the product of the sum of the special education aid the district would have received for fiscal year 2016 under Minnesota Statutes 2012, sections 125A.76 and 125A.79, as adjusted according to Minnesota Statutes 2012, sections 125A.11 and 127A.47, subdivision 7, the ratio of the district's average daily membership served for the current fiscal year to the district's average daily membership served for fiscal year 2016, and the program growth factor.

(e) Notwithstanding paragraph (b), for fiscal year 2016 and later the special education aid for a school district, not including a charter school, must not be less than the lesser of (1) the district's nonfederal special education expenditures for that fiscal year or (2) the product of the sum of the special education aid the district would have received for fiscal year 2016 under Minnesota Statutes 2012, sections 125A.76 and 125A.79, as adjusted according to Minnesota Statutes 2012, sections 125A.11 and 127A.47, subdivision 7, the ratio of the district's adjusted daily membership for the current fiscal year to the district's average daily membership for fiscal year 2016, and the program growth factor.

Subd. 2d. **Statewide average expenditure.** By January 15 of each year, the department must calculate the statewide average special education expenditure per December 1 child count for the prior fiscal year by primary disability area and provide that information to all districts. By January 15 of each odd-numbered year, the commissioner must identify options for aligning the assignment of disability areas to the categories and the rates for each category in subdivision 2a, clause (1), with the latest expenditure data and submit these options to the legislative committees with jurisdiction over education finance.

[See Note.]

Subd. 3. [Repealed, 2007 c 146 art 3 s 25]

Subd. 4. **State total special education aid.** The state total special education aid equals \$529,247,000 for fiscal year 2007, \$694,063,000 for fiscal year 2008, \$719,470,000 for fiscal year 2009, \$735,693,000

for fiscal year 2010, and \$786,586,000 for fiscal year 2011. The state total special education aid for later fiscal years equals:

(1) the state total special education aid for the preceding fiscal year; times

(2) the program growth factor; times

(3) the greater of one, or the ratio of the state total average daily membership for the current fiscal year to the state total average daily membership for the preceding fiscal year.

[See Note.]

Subd. 4a. **Adjustments for tuition reciprocity with adjoining states.** (a) If an agreement is reached between the state of Minnesota and an adjoining state pursuant to section 124D.041 that requires a special education tuition payment from the state of Minnesota to the adjoining state, the tuition payment shall be made from the special education aid appropriation for that year.

(b) If an agreement is reached between the state of Minnesota and an adjoining state pursuant to section 124D.041 that requires special education tuition payments to be made between the two states and not between districts in the two states, the special education aid for a Minnesota school district serving a student with a disability from the adjoining state shall be calculated according to section 127A.47, subdivision 7, except that no reduction shall be made in the special education aid paid to the resident district.

[See Note.]

Subd. 5. **School district special education aid.** A school district's special education aid for fiscal year 2008 and later equals the state total special education aid times the ratio of the district's initial special education aid to the state total initial special education aid.

[See Note.]

Subd. 6. [Repealed, 1999 c 241 art 2 s 62]

Subd. 7. **Revenue allocation from cooperative centers and intermediates.** For the purposes of this section, a special education cooperative, a service cooperative, an education district, or an intermediate district must allocate its approved expenditures for special education programs among participating school districts.

[See Note.]

Subd. 8. **Special education forecast maintenance of effort.** (a) If, on the basis of a forecast of general fund revenues and expenditures under section 16A.103, the state's expenditures for special education and related services for children with disabilities from nonfederal sources for a fiscal year, including special education aid under subdivision 2c; travel for home-based services under section 125A.75, subdivision 1; aid for students with disabilities under section 125A.75, subdivision 3; court-placed special education under section 125A.79, subdivision 4; out-of-state tuition under section 125A.79, subdivision 8; and direct expenditures by state agencies are projected to be less than the amount required to meet federal special education maintenance of effort, the reimbursement percentages for excess cost aid under section 125A.79, subdivision 5, must be increased as required to ensure that the additional amount required to meet federal special education maintenance of effort is added to the state total special education aid in subdivision 2c.

(b) If, on the basis of a forecast of general fund revenues and expenditures under section 16A.103, expenditures in the programs in paragraph (a) are projected to be greater than previously forecast for an

enacted budget, and an addition to state total special education aid has been made under paragraph (a), the state total special education aid must be reduced by the lesser of the amount of the expenditure increase or the amount previously added to state total special education aid in subdivision 2c.

(c) For the purpose of this section, "previously forecast for an enacted budget" means the allocation of funding for these programs in the most recent forecast of general fund revenues and expenditures or the act appropriating money for these programs, whichever occurred most recently. It does not include planning estimates for a future biennium.

(d) If the amount of special education aid is adjusted in accordance with this subdivision, the commissioner of education shall notify the chairs of the legislative committees having jurisdiction over kindergarten through grade 12 education regarding the amount of the adjustment and provide an explanation of the federal maintenance of effort requirements.

[See Note.]

History: *1Sp1995 c 3 art 15 s 10; art 16 s 13; 1996 c 412 art 3 s 19-24; 1997 c 7 art 1 s 54; 1Sp1997 c 4 art 2 s 19-22; 1998 c 397 art 2 s 99-101,164; art 11 s 3; 1998 c 398 art 1 s 22; art 2 s 27; art 5 s 55; 1999 c 241 art 2 s 37-40; 1999 c 245 art 4 s 5; 2000 c 489 art 3 s 11,12; art 10 s 10; 2000 c 499 s 32; 1Sp2001 c 6 art 3 s 12,13; 2002 c 294 s 5; 2002 c 375 art 3 s 3; 2003 c 130 s 12; 1Sp2003 c 9 art 3 s 13,14; 1Sp2005 c 5 art 3 s 10; 2007 c 146 art 3 s 11-15; 2008 c 363 art 2 s 18,19; 2009 c 96 art 3 s 19; 1Sp2011 c 11 art 3 s 12; 2013 c 116 art 5 s 17-23,32; 2013 c 144 s 12,13; 2014 c 312 art 17 s 3-7*

NOTE: Subdivisions 2, 4, 5, and 7 are repealed for fiscal year 2016 and later. Laws 2013, chapter 116, article 5, section 32.

NOTE: Subdivision 2a, as added by Laws 2013, chapter 116, article 5, section 18, is effective for fiscal year 2016 and later. Laws 2013, chapter 116, article 5, section 18, the effective date.

NOTE: Subdivision 2d, as added by Laws 2013, chapter 116, article 5, section 21, is effective July 1, 2015. Laws 2013, chapter 116, article 5, section 21, the effective date.

NOTE: The amendments to subdivisions 4a and 8 by Laws 2013, chapter 116, article 5, sections 22 and 23, are effective for fiscal year 2016 and later. Laws 2013, chapter 116, article 5, sections 22 and 23, the effective dates.

NOTE: The amendment to subdivision 2a by Laws 2014, chapter 312, article 17, section 5, is effective for revenue for fiscal year 2016 and later. Laws 2014, chapter 312, article 17, section 5, the effective date.